

NOT FOR PUBLICATION

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA,

Plaintiff,

v.

MICHAEL BRASSINGTON, PAUL
BRASSINGTON, AND BRIAN
MCKENZIE,

Defendants.

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Hon. Dennis M. Cavanaugh

ORDER

Crim. No. 09-CR-45 (DMC)

DENNIS M. CAVANAUGH, U.S.D.J.:

This matter comes before the Court upon motions by Defendants Michael Brassington, Paul Brassington, Brian McKenzie (“McKenzie”), and John Kimberling (“Kimberling”) (collectively, “Defendants”) to dismiss several counts of the Superseding Indictment, for severance, for a pre-trial hearing, for disclosure of evidence, and to prohibit the Government from referencing the jet crash at trial. After considering the submissions of the parties, and based upon the Court’s Opinion filed this day;

IT IS this 8 day of October, 2010;

ORDERED that Defendants’ motion to dismiss Count 1 of the Superseding Indictment as duplicitous is **denied**;

ORDERED that Michael Brassington’s motion to dismiss Counts 2 & 3 of the Superseding Indictment on grounds of res judicata/collateral estoppel is **denied**;

ORDERED that Paul Brassington’s motion to dismiss Count 2 of the Superseding Indictment as time-barred is **granted**;

ORDERED that McKenzie and Michael Brassington's motion to dismiss Counts 8, 9 and 10 of the Superseding Indictment as time-barred is **granted**;

ORDERED that McKenzie, Michael Brassington and Paul Brassington's motion to dismiss Counts 9, 11, 13, 16, 19 & 22 of the Superseding Indictment for improper venue is **denied**;

ORDERED that Michael Brassington's motion for severance from Francis Vieira is moot and **denied**;

ORDERED that McKenzie, Kimberling and Paul Brassington's motion for severance from all Co-Defendants is **denied**;

ORDERED that Defendants' motion for a pre-trial hearing to establish a conspiracy is **denied**;

ORDERED that McKenzie's motion for prompt disclosure of Rule 404(b) is **denied**;

ORDERED that Michael Brassington and Paul Brassington's motion for disclosure of personnel files, internal affairs files, and any and all disciplinary files of law enforcement witnesses is **denied**;

ORDERED that McKenzie, Kimberling and Paul Brassington's motion to preclude the Government from referencing or introducing evidence regarding the jet crash is **denied**;

ORDERED that McKenzie and Paul Brassington's motion for severance from all Co-Defendants is **denied**; and

IT IS FURTHER ORDERED that Michael Brassington and Paul Brassington's motion for permission to use electronic equipment is **granted**.

s/Dennis M. Cavanaugh
Dennis M. Cavanaugh, U.S.D.J.

Original: Clerk's Office
cc: All Counsel of Record
File